

1 HONORABLE RONALD B. LEIGHTON  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 LANCE W. BURTON,  
11 Plaintiff,  
12 v.  
13 ROBERT L. HARRIS, et al,  
14 Defendants.

Case No. C09-5773RBL  
ORDER

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17 THIS MATTER comes on before the above-entitled Court upon Plaintiff's attempted "removal"  
18 of his civil complaint and Defendant's Objection to Removal [Dkt. #11]. Having considered the entirety  
19 of the records and file herein, the Court finds and rules as follows:

20 Plaintiff initially filed a Complaint in Clark County against the above-named Defendants.<sup>1</sup> Venue  
21 was changed first to Skamania County and then to Cowlitz County. The gravamen of Plaintiff's  
22 complaint appears to be that Superior Court Judge Robert L. Harris ruled against him in a legal  
23 malpractice action he brought against his attorney in yet another lawsuit. Plaintiff apparently "removed"  
24 the current case to this Court because he is dissatisfied with the Superior Court Judge assigned to hear the  
25 matter.

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<sup>1</sup>Plaintiff failed to follow the requirement of § 1446(a) that he file "a notice of removal . . . containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served . . ." Thus this Court is not sure exactly who Plaintiff sued nor what claims his state court complaint contains.

Removal is governed by 28 U.S.C. § 1441 et. seq. and the statutes are strictly construed. *See generally Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100 (1941); *Gaus v. Miles, Inc.*, 980 F.2d 564 (9<sup>th</sup> Cir. 1992). Section 1441(a) provides civil actions brought in state court “may be removed by the defendant or the defendants” to federal court and § 1446(a) provides a procedure for “[a] defendant or defendants desiring to remove any civil action” to do so. A plaintiff may not remove to federal court a civil action he first commences in state court. *See Progressive West Ins. Co. v. Precado*, 479 F.3d 1014 (9<sup>th</sup> Cir. 2007).

8 Therefore, this matter is remanded to the Cowlitz County Superior Court. Furthermore, the Clerk  
9 is directed not to file and to return to plaintiff the documents he delivered to the Court on or about April  
10 19, 2010.

## IT IS SO ORDERED.

The Clerk shall send uncertified copies of this order to all counsel of record, and to any party appearing pro se.

Dated this 10<sup>th</sup> day of May, 2010.

Ronald B. Leighton  
RONALD B. LEIGTON  
UNITED STATES DISTRICT JUDGE